

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #8	CCRB Case #: 201901710	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/22/2019 7:00 PM	Location of Incident: Marcus Garvey and Greene Avenue	Precinct: 81	18 Mo. SOL 8/22/2020	EO SOL 4/8/2021	
Date/Time CV Reported Sun, 02/24/2019 8:32 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 02/24/2019 8:32 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Joel Rodriguez	16835	955399	081 PCT
2. POM Abel Lovera	01160	954081	081 PCT
3. POM Soney Varghese	15438	957246	081 PCT
4. POM Joseph Sferrazza	19468	951237	081 PCT
5. POM Daniel Trudnak	05270	957232	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Yasin Elhaddad	3263	940123	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Abel Lovera	Discourtesy: Police Officer Abel Lovera spoke discourteously to § 87(2)(b)	
B.POM Joel Rodriguez	Abuse: Police Officer Joel Rodriguez threatened to arrest § 87(2)(b)	
C.POM Abel Lovera	Abuse: Police Officer Abel Lovera refused to provide his name to § 87(2)(b)	
D.POM Abel Lovera	Abuse: Police Officer Abel Lovera refused to provide his shield number to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On February 24, 2019, § 87(2)(b) filed the following complaint with the CCRB online.

On February 22, 2019, at approximately 7:00 p.m., § 87(2)(b) almost collided with an unmarked police vehicle driving the wrong way on Marcus Garvey Boulevard in Brooklyn. § 87(2)(b) double-parked his car on Greene Avenue, where he observed the same unmarked vehicle parked on Marcus Garvey Boulevard. § 87(2)(b) approached the vehicle and began to take pictures, when an unknown officer told him to remain where he was. Six officers, PO Joel Rodriguez, PO Abel Lovera, Sgt. Yasin Elhaddad, PO Soney Varghese, PO Joseph Sferrazza, and PO Daniel Trudnak, all of the 81st Precinct, approached § 87(2)(b). PO Lovera allegedly called § 87(2)(b) dumb and stupid (**Allegation A: Discourtesy**; § 87(2)(g)). While § 87(2)(b) was speaking with Sgt. Elhaddad, PO Rodriguez allegedly threatened to arrest § 87(2)(b) (**Allegation B: Abuse of Authority**; § 87(2)(g)). § 87(2)(b) allegedly asked PO Lovera continuously for his name and shield number during this incident, which PO Lovera refused to provide (**Allegation C and D: Abuse of Authority**; § 87(2)(g)). § 87(2)(b) provided his license to PO Varghese, who issued him three summonses for § 87(2)(b) [BR01 through BR03, respectively].

§ 87(4-b), § 87(2)(g)

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Abel Lovera spoke discourteously to § 87(2)(b)

§ 87(2)(g)
§ 87(2)(b) testified that, after being stopped by an unidentified officer, PO Lovera began to call him dumb and stupid [BR08]. § 87(2)(b) asked PO Lovera why he was calling him that, to which PO Lovera asked why he was taking pictures of the police vehicle.

PO Lovera testified that he told § 87(2)(b) to “back off” from the unmarked police vehicle and could take pictures once their car stop with § 87(2)(f), § 87(2)(e) was concluded [BR09]. He did not call § 87(2)(b) dumb or stupid, and did not hear any officer make these statements. He returned to speaking with § 87(2)(f), § 87(2)(e), and did not interact with § 87(2)(b) again for the duration of the incident.

Sgt. Elhaddad, PO Rodriguez, PO Varghese, PO Sferrazza, and PO Trudnak all testified that they did not hear PO Lovera call § 87(2)(b) dumb or stupid [BR 10 through BR 14, respectively]. They did not hear any officer make these statements. They did not hear any officer make derogatory comments towards § 87(2)(b)'s intelligence.

Body-camera footage from PO Rodriguez, PO Varghese, and PO Sferrazza did not capture PO Lovera making these statements [BR05 through BR07, respectively]. While footage did not show PO Lovera calling § 87(2)(b) dumb and stupid, the officers' BWCs did not capture the whole incident or § 87(2)(b)'s individual interaction with PO Lovera.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Joel Rodriguez threatened to arrest

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) testified that, while speaking with Sgt. Elhaddad, PO Rodriguez told him he would get arrested [BR08]. § 87(2)(b) asked what he could be arrested for, to which PO Rodriguez responded that if he kept talking, he would be arrested. PO Rodriguez did not provide a reason as to why § 87(2)(b) could be arrested.

PO Rodriguez testified that he informed § 87(2)(b) that being on the street and double-parking were summonsable offenses [BR11]. He did not threaten to arrest § 87(2)(b). PO Rodriguez stated that § 87(2)(b) could have been arrested for disorderly conduct, as he refused to comply with lawful orders to move onto the sidewalk.

Sgt. Elhaddad did not recall if PO Rodriguez threatened to arrest § 87(2)(b) [BR10]. He did not recall any officer making a mention of an arrest. He testified that PO Rodriguez informed § 87(2)(b) that he could be summonsed for obstructing government administration. He stated that the summonses were in lieu of an arrest.

PO Lovera, PO Varghese, and PO Trudnak did not hear PO Rodriguez threaten to arrest § 87(2)(b) and did not know if there was something § 87(2)(b) could have been arrested for [BR09, BR12, and BR14, respectively]. PO Sferrazza testified that an officer informed § 87(2)(b) that he could be arrested for obstructing government administration [BR13]. He did not know which officer made this statement. Footage from PO Sferrazza's BWC showed Sgt. Elhaddad informing § 87(2)(b) that he could have been arrested for obstructing government administration, but that he "was not going to do that" [BR06]. BWC footage from PO Rodriguez, PO Varghese, and PO Sferrazza did not show PO Rodriguez threatening to arrest § 87(2)(b) [BR05 through BR07, respectively].

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Abel Lovera refused to provide his name to § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Abel Lovera refused to provide his shield number to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) testified that he repeatedly requested PO Lovera's name and shield number throughout the incident [BR 08]. PO Lovera ignored § 87(2)(b)'s request each time. § 87(2)(b) requested PO Lovera's information from Sgt. Elhaddad, who told him that he would provide the information after the summonses were issued. After § 87(2)(b) received his summonses, he again asked Sgt. Elhaddad for PO Lovera's information. As Sgt. Elhaddad was getting into his vehicle, he shouted "Rivera, 3215".

PO Lovera testified that he did not refuse to provide his name and shield number to § 87(2)(b) [BR09]. He stated that § 87(2)(b) did not request his information, and that they did not speak after he told § 87(2)(b) to step away from the police vehicle.

Sgt. Elhaddad, PO Rodriguez, PO Varghese, PO Sferrazza, and PO Trudnak testified that they did not hear PO Lovera refuse to provide his information to § 87(2)(b) [BR10 through

BR14, respectively]. PO Sferrazza stated that other officers provided their information, but he did not know which one.

BWC footage from PO Sferrazza and PO Varghese showed § 87(2)(b) request the officers on screen for the information of an unidentified officer, who appears to be off-screen [BR06 and BR07, respectively]. § 87(2)(b) did not directly ask for this officer's information, and referred to him as the "officer who disrespected me." It is unclear if this officer is PO Lovera. PO Lovera was shown PO Sferrazza's body camera footage and did not know which officer § 87(2)(b) was referring to [BR09]. PO Trudnak was shown footage from PO Varghese's BWC, and did not know which officer § 87(2)(b) was referring to [BR14].

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one prior CCRB complaint, case #§ 87(2)(b)
- PO Lovera has been a member of service for six years, and has been a subject in nine CCRB complaints and 17 allegations, none of which were substantiated. § 87(2)(g)
- PO Rodriguez has been a member of service for five years, and has been a subject in three CCRB cases and four allegations, none of which were substantiated. § 87(2)(g)
- PO Varghese has been a member of service for four years and has been a subject in seven CCRB complaints and nine allegations. A frisk allegation for case #2018007743 was substantiated, for which the Board recommended Command Discipline A and is pending NYPD disposition. § 87(2)(g)
- PO Sferrazza has been a member of service for seven years, and has been a subject in five CCRB complaints and six allegations, none of which have been substantiated. § 87(2)(g)
- PO Trudnak has been a member of service for four years. This is the first CCRB complaint in which PO Trudnak has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On May 24, 2019, a FOIL request was sent to the New York City Office of the Comptroller to determine if a Notice of Claim had been filed regarding this incident [BR17].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date